

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, OCTOBER 12, 2004**

The Council of the City of San José convened in regular session at 9:00 a.m. in the Mayor's Conference Room 600, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Yeager; Gonzales.

Absent: Council Members - Williams. (Excused)

Upon motion unanimously adopted, Council recessed at 9:01 a.m. to a Closed Session in Room 600, (A) to confer with Legal Counsel to discuss anticipated litigation pursuant to subsection (c) of Section 54956.9 of the Government Code in one (1) matter. (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Federation; (4) Confidential Employees Organization; (5) City Association of Management Personnel; (6) Association of Maintenance Supervisory Personnel; (7) Operating Engineers, Local 3; (8) International Brotherhood of Electrical Workers; (9) Association of Building and Mechanical and Electrical Inspectors; (10) Association of Engineers and Architects; (11) International Federation of Professional and Technical Employees, Local 21.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:50 a.m. and reconvened at 1:36 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Yeager; Gonzales.

Absent: Council Members - Williams. (Excused)

## **INVOCATION**

Reverend Dwight Kinter, Chaplain for the Interfaith Chaplaincy at Norman Y. Mineta, San José International Airport provided the invocation. (District 9)

## **PLEDGE OF ALLEGIANCE**

Mayor Gonzales led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved, with Item 6.2 dropped. (8-0-3. Absent: Campos, LeZotte, Williams.)

## CONSENT CALENDAR

Upon motion by Council Member Yeager, seconded by Council Member Reed and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Williams.)

### 2.1 Approval of City Council Minutes for:

- (a) **Regular Meeting of August 24, 2004**
- (b) **Joint City Council/San José Financing Authority Meeting of August 24, 2004**
- (c) **Regular Meeting of August 31, 2004**

Documents Filed: Regular Meeting Minutes dated August 24, and August 31, 2004, and the Joint City Council/San José Financing Authority Meeting Minutes dated August 24, 2004.

Action: The Minutes were approved. (10-0-1. Absent: Williams.)

- 2.2 (a) **ORD. NO. 27255 – Amends Section 2.08.150 and Section 2.08.830 of Chapter 2.08 of Title 2 of the San José Municipal Code to modify the length and number of terms served by members of certain City Boards or Commissions not established by the Charter.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27255 was adopted. (10-0-1. Absent: Williams.)

- 2.3 **Approval of an ordinance amending Chapters 4.46, 4.47, and 4.54 of Title 4 of the San José Municipal Code to add Sections to suspend the collection of fifty percent of the Building and Structure Construction Tax, the Commercial-Residential-Mobilehome Park Building Tax, and the Construction Tax for construction of small business improvements, either as new construction or tenant improvements, of 3,000 square feet or less by new or existing small businesses. (City Attorney's Office) (GFB2W Initiative)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated September 29, 2004, recommending approval of the ordinance.

## 2.3 (Cont'd.)

Action: Council Member Cortese requested clarification on this item. Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27265, entitled; “An Ordinance of the City of San José Amending Chapters 4.46, 4.47 and 4.54 of Title 4 of the San José Municipal Code to Add Sections to Suspend the Collection of Fifty Percent of the Building and Structure Construction Tax, the Commercial-Residential-Mobilehome Park Building Tax, and the Construction Tax for Construction of Small Business Improvements, Either as New Construction or Tenant Improvements, of 3,000 Square Feet or Less by New or Existing Small Businesses”, was passed for publication, with Staff directed to: (1) Conduct outreach to the small business associations. (2) Determine actual size of small businesses, in terms of square footage. (3) Return to Council with a report in 6 months about the effectiveness of the incentive program, including where the process may need improvement, if necessary. (10-0-1. Absent: Williams.)

- 2.4 (a) **Office of the City Auditor’s Report of Activities and Findings for the Period August 16 through September 15, 2004”.**  
(b) **Findings reports from Kafoury, Armstrong, & Company, LLP for the quarter ending June 30, 2004, relating to the Bay 101 Conditional Approval of Stock Transfer”.**  
(City Auditor)

Documents Filed: (1) Report of Activities and Findings for the Period August 16 through September 15, 2004 from the Office of the City Auditor. (2) Findings reports from Kafoury, Armstrong, & Company, LLP for the quarter ending June 30, 2004.

Action: The reports were accepted. (10-0-1. Absent: Williams.)

- 2.5 **Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Spartan Keyes Noise Study Project (PSM 351#) Project, the Sound Walls Noise Study Project (PSM 353#) Project and the Mayfair Streetlights Project (PSM 359#) Project, with a net impact to the fund of \$92,000. CEQA: Not a Project. Council Districts 3 and 5. SNI: Spartan/Keyes, East Valley/680 and Mayfair.**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated September 22, 2004, recommending adoption of ordinance.

Action: Ordinance No. 27266, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for Various Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 72353, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, were adopted. (10-0-1. Absent: Williams.)

**2.6 Adoption of a resolution authorizing the City Manager to negotiate and execute the Reuse and Recycling Agreements with the following non-profit organizations, for a one-year period beginning July 1, 2004 and ending June 30, 2005, in the annual amounts of:**

- (a) Goodwill Industries of Santa Clara County, in an amount not to exceed \$369,000.**
- (b) The Salvation Army, in an amount not to exceed \$123,500.**
- (c) St. Vincent de Paul Society, in an amount not to exceed \$13,000.**
- (d) Hope Services, in an amount not to exceed \$10,000.**

**CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated October 6, 2004, recommending adoption of the resolution.

Public Comment: Cathey Eskandari, Goodwill of Santa Clara County and Ross Signorino spoke in favor but pointed out that illegal dumping at Goodwill continues to occur.

Discussion: Council Member LeZotte commented that the Council might wish to address the issue of illegal dumping as a result of reduced services during the next budget cycle.

Action: Upon motion by Council Member Cortese, seconded by Council Member Reed, and carried unanimously, Resolution No. 72354, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Reuse and Recycling Agreements with Goodwill Industries of Santa Clara County, The Salvation Army, St. Vincent De Paul Society, and Hope Services for FY 2004-05", was adopted. (10-0-1. Absent: Williams.)

**2.7 Adoption of a resolution authorizing the Director of Finance, to extend the letter of credit expiration date to November 2, 2007, and the commitment expiration date to October 18, 2005, pursuant to the Letter of Credit and Reimbursement Agreement between the City of San José and Morgan Guaranty Trust Company of New York ("JPMorgan") and authorizing the Director of Finance to negotiate and execute future extensions to the Agreement with respect to the expiration dates and fees paid to JPMorgan. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 22, 2004, recommending adoption of the resolution.

Action: Resolution No. 72355, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Extend the Letter of Credit Expiration Date and the Commitment Expiration Date Pursuant to the Letter of Credit and Reimbursement Agreement Between the City of San José and Morgan Guaranty Trust Company of New York, and Authorizing the Director of Finance to Negotiate and Execute Future Extensions to the Agreement with Respect to the Expiration Dates and Fees", was adopted. (10-0-1. Absent: Williams.)

- 2.8 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #4, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: Memorandum from Interim Director of General Services Jim McBride, dated September 22, 2004, recommending approval of open purchase orders.

Action: The Open Purchase Orders #4 for FY 2004-2004 were approved. (10-0-1. Absent: Williams.)

- 2.9 Approval of amendments to two leases with Cornerstone Properties, LLC, for office space at 4 North Second Street reducing the combined monthly rent from \$90,608.80 to \$68,384.00 per month while increasing the term of the agreements by 8 months to August 31, 2005. CEQA: Not a Project. (General Services)**

Documents Filed: Memorandum from Interim Director of General Services Jim McBride, dated September 22, 2004, recommending approval of amendments.

Action: The amendments to the two leases were approved. (10-0-1. Absent: Williams.)

- 2.10 Approval of Council Member Forrest Williams' travel to Atlanta, Georgia, October 9-14, 2004, to attend American Public Transportation Agency Conference. Funding: Santa Clara Valley Transportation Authority. (Williams)**

Documents Filed: Memorandum from Council Member Williams, dated September 28, 2004, requesting approval of travel.

Action: Council Member Williams' travel was approved. (10-0-1. Absent: Williams.)

- 2.11 Approval of Council Member Nora Campos' travel to San Antonio, Texas, on October 13-15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Council District 5 Office Budget. (Campos)  
(Rules Committee referral 10/6/04)**

Documents Filed: None.

Action: Council Member Campos' travel was approved. (10-0-1. Absent: Williams.)

- 2.12 Approval of Council Member Dave Cortese's travel to San Antonio, Texas, on October 13–15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Council District 8 Funds. (Cortese)  
(Rules Committee referral 10/6/04)**

Documents Filed: Memorandum from Council Member Cortese, dated September 30, 2004, requesting approval of travel.

Action: Council Member Cortese's travel was approved. (10-0-1. Absent: Williams.)

- 2.13 Approval of Mayor Ron Gonzales' travel to San Antonio, Texas, on October 13–15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Mayor's Office. (Mayor)  
(Rules Committee referral 10/6/04)**

Documents Filed: Memorandum from Mayor Gonzales requesting approval of travel.

Action: Mayor Gonzales' travel was approved. (10-0-1. Absent: Williams.)

- 2.14 Approval of Council Member Linda LeZotte's travel to San Antonio, Texas, on October 13–15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Council General or other appropriate funding source. (LeZotte)  
(Rules Committee referral 10/6/04)**

Documents Filed: None.

Action: Council Member LeZotte's travel was approved. (10-0-1. Absent: Williams.)

- 2.15 Approval of Council Member Ken Yeager's travel to San Antonio, Texas, on October 13–15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Council District 6 Funds. (Yeager)  
(Rules Committee referral 10/6/04)**

Documents Filed: None.

Action: Council Member Yeager's travel was approved. (10-0-1. Absent: Williams.)

**END OF CONSENT CALENDAR**

## **STRATEGIC SUPPORT SERVICES**

### **3.1 Report of the Study Session – August 27, 2004 Mayor Gonzales, Chair**

- (a) Getting Families Back to Work – One Year Anniversary

Documents Filed: The Minutes of Getting Families Back to Work - One Year Anniversary dated August 27, 2004.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Study Session Minutes were approved. (10-0-1. Absent: Williams.)

### **3.2 Report of the Rules Committee – September 29, 2004 Vice Mayor Dando, Chair**

Documents Filed: (1) The Rules Committee Report dated September 29, 2004. (2) Memorandum from Fire Chief Jeffrey Clet, dated October 7, 2004, recommending acceptance of the report on the High-Rise Ordinance.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting

- (b) City Council

- (1) Review October 12, 2004 Draft Agenda

The Committee recommended approval of the October 12, 2004 City Council agenda with three additions.

- (2) Add New Items to October 5, 2004 Amended Agenda

The Committee recommended approval of eight additions to the October 5, 2004 City Council Amended Agenda.

- (3) List of Reports Outstanding. Attachment: Report from the City Manager, dated September 28, 2004, transmitting reports outstanding for October 5, 2004.

The Committee noted and filed the City Manager's report.

- (c) Legislative Update

- (1) State

- (a) Approve City Positions on November 2004 State Ballot Propositions.

This item was reported at the October 5, 2004 City Council Meeting, Item 3.2 (c)(1)(a).

**3.2 Report of the Rules Committee – September 29, 2004 (Cont'd.)  
Vice Mayor Dando, Chair**

- (c) Legislative Update (Cont'd)
  - (2) Federal - There was no report.
- (d) Meeting Schedules - There were none.
- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated September 23, 2004, transmitting the items to the Administration and the Public Record for the period September 8-21, 2004.

The Committee noted and filed the Public Record.

- (f) Appointment to Boards, Commissions and Committees - There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) High-Rise Safety Regulation Review. Attachment: Memorandum from Fire Chief Jeffrey Clet, dated September 22, 2004, recommending acceptance of the report.

The Committee accepted the recommendation to allow the drafting of the High-Rise Safety Regulation Review and timeline for ordinance completion to be extended to January 2005, with Council Member Chavez expressing concern for the delay of completion of the review.

- (2) Revision of Definition of Surviving Child as it Pertains to Police and Fire Retirement Plan.

The Committee recommended that this item be referred to the Closed Session of October 5, 2004.

- (h) Oral communications - There were none.
- (i) Adjournment - The meeting was adjourned at 3:00 p.m.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Cortese, the Report of the Rules Committee and the actions of September 19, 2004, were accepted, with the exception of Item 3.2(g)(1), taken separately. (10-0-1. Absent: Williams.)



### **3.2 (g)(1) - High-Rise Safety Regulation Review**

Vice Mayor Dando pulled Item 3.2(g) (1) for discussion. Fire Marshall Dave Schooner reported that additional time was needed to allow the Chamber of Commerce time to review the draft ordinance.

Public Comment: Jim Tucker, San José Silicon Valley Chamber of Commerce, generally concurred with the project but noted concern that sufficient time has not been allowed for the City Attorney to draft the ordinance.

Discussion: Vice Mayor Dando suggested Staff take another 2 weeks to gather input and provide answers to the Chamber before the attorneys start to draft the ordinance. She also suggested outreach to the City's other partners. Council Member Chavez expressed concern that discussions with the Chamber were not engaged sooner.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, Staff was directed to defer drafting of the ordinance by two weeks, seek input from the San José Chamber of Commerce, and report back on October 26, 2004. (10-0-1. Absent: Williams.)

- 3.4 (a) Acceptance of the 2003-2004 City Manager's Annual Report of the Finances and Administrative Activities of the City of San José, pursuant to the City Charter Section 701(f).**
- (b) Adoption of appropriation ordinance and funding sources resolution amendments in various operating and capital funds to implement 2003-2004 Annual Report recommendations and provide appropriate technical adjustments.**
- (c) Approval of amendments to the City's Budget Policies and Practices and adoption of a Council Policy that contains the revised Budget Policies and Practices. (Mayor)**

**(Rules Committee referral 10/6/04)**

**CEQA: Not a Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Mayor Gonzales, Council Members Chavez and Reed, dated October 7, 2004, recommending acceptance of City Manager's Annual Report, and enact a Council Policy as shown in Attachment A. (2) The 2003-2004 Annual Report from the Office of the City Manager, dated September 2004.

Budget Director Larry Lisenbee presented an outline of the 2003-2004 Annual Report, and responded to Council questions. Discussion followed.

### 3.4 (Cont'd.)

Public Comment: Ross Signorino stated the Manager's Report is encouraging, but expressed concern with inflation.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the report was accepted, with Staff directed to: (1) Return to Council with a chart outlining operational costs, subsidies and projections for public golf courses. (2) Consider life-cycle costs, as outlined in the Environmentally Preferable Purchasing Policy, when purchasing equipment; Ordinance No. 27267, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Various Funds to Implement 2003-2004 Annual Report Recommendations and Make Appropriate Technical Adjustments; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72356, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 to Implement the 2003-2004 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Fund", were adopted; and the amendments to the City's Budget Policies and Practices and adoption of a Council Policy that contains the revised Budget Policies and Practices was approved, as amended, including: (1) Insert a line under "Purpose" in the Council Policy that it is a general policy and specific policies adopted by the City Council supersede the general policy; (2) Include in B-2(e), a reference to the City's Energy and Water policies; (3) During the Annual Capital Budget process for multi-year budgeted projects, bring back in spreadsheet format, more information regarding the project including the original budget, budget addendums and the projected schedule. (10-0-1. Absent: Williams.)

### 3.5 **Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2003-04. (City Manager's Office)**

Documents Filed: None.

Action: Deferred to October 19, 2004.

### 3.6 **Acceptance of the 2003-04 Year-End City Service Area Performance Report. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Del Borgsdorf, dated September 30, 2004, recommending acceptance of the 2003-04 Year End CSA Performance Report, and transmitting the report.

Principal Budget Analyst Brooke Myhre presented an outline of the 2003-04 Year-End City Service Area Performance Report and responded to Council questions.

Action: Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, the report was accepted, with Staff directed to address the high percentage of residential burglaries and return with a means to reverse it in next year's budget. (10-0-1. Absent: Williams.)

**3.7 Adoption of a resolution authorizing the City Manager to execute an agreement with Gartner, Inc. for technical and procurement services for the New City Hall Converged Network RFP, in an amount not to exceed \$365,226 plus an additional 15% (\$54,774) for additional services related to Server/SAN procurement. (Information Technology)  
(Deferred from 10/5/04 – Item 3.5)**

Documents Filed: (1) Memorandum from Deputy City Manager Ed Shikata, Acting Chief Information Officer James Helmer, and Interim Director General Services Jim McBride, dated September 30, 2004, recommending adoption of the resolution. (2) Supplemental memorandum from Deputy City Manager Ed Shikata, Acting Chief Information Officer Helmer, and Interim Director General Services McBride, dated October 7, 2004, providing responses to questions raised by Council on October 5, 2004.

Public Comment: Steve Gardner (employed by second lowest bidder but not speaking on the firm's behalf) suggested that it is not clear how many hours are necessary to complete the job, nor is it clear how much the total project will cost.

Discussion: Deputy City Manager Ed Shikata responded to issues raised by the public speaker and answered additional Council questions.

Action: Upon motion by Council Member Gregory, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72357, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Gartner, Inc. for Technical and Procurement Services for the Converged Network RFP for the New City Hall", was adopted. (10-0-1. Absent: Williams.)

## **ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

**4.2 Report of the Driving a Strong Economy Committee – September 27, 2004  
Council Member Williams, Chair**

Documents Filed: The Driving a Strong Economy Committee Report dated September 27, 2004.

(a) Parkland Dedication Ordinance and Park Impact Ordinance Proposed Revisions

The Committee accepted Staff's request for deferral until November 22, 2004.

(b) North San José Development Policy Update. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, Deputy Executive Director Redevelopment Agency John Weis, Director of Economic Development Paul Krutko, and Director of Transportation James Helmer, dated September 14, 2004, transmitting the report.

The Committee accepted the Staff report.

**4.2 Report of the Driving a Strong Economy Committee – September 27, 2004  
Council Member Williams, Chair (Cont'd.)**

- (c) Sign Code Amendments. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated September 14, 2004, transmitting the proposed amendments.

The Committee accepted the Staff report. See Item 4.3 for Council action taken.

- (d) Oral Petitions - There were none.
- (e) Adjournment - The meeting was adjourned at 3:07 p.m.

Action: Upon motion by Council Member Gregory, seconded by Council Member LeZotte, and carried unanimously, the Report of the Driving a Strong Economy Committee and the Actions of September 27, 2004, were approved. (10-0-1. Absent: Williams.)

**4.3 Discussion regarding proposed amendments to the Sign Code Ordinance, direction to the Administration to conduct outreach efforts on the proposals, and direction to the City Attorney to prepare amendments to the Sign Code for Council consideration. (Planning, Building and Code Enforcement)  
[Driving a Strong Economy Committee referral 9/27/04 – Item 4.2(c)]**

Documents Filed: Memorandum from Senior Executive Analyst Nadine Nader, dated September 30, 200, transmitting the presentation by Director of Planning, Building and Code Enforcement Stephen Haase of the Sign Code Ordinance.

Public Comment: William Garbett complained about certain types of signs and proposed that the Council get more input from citizens, not just advertisers.

Action: Upon motion by Council Member Reed, seconded by Council Member Cortese, and carried unanimously, Staff was directed to include outreach with Strong Neighborhood Initiative Groups, Downtown Associations and Neighborhood Action Communities. (10-0-1. Absent: Williams.)

**4.4 Adoption of a resolution indicating the City's opposition to a reorganization of territory involving the detachment of certain real property located at 15221 Skyview Drive (APN: 595-06-002) and directing the City Clerk to transmit a copy of this resolution to the Local Agency Formation Commission of Santa Clara County on or before October 19, 2004. CEQA: Exempt. Council District 4. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated September 22, 2004, recommending adoption of the resolution.

#### **4.4 (Cont'd.)**

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72358, entitled: "A Resolution of the Council of the City of San José Indicating the Opposition of the City of San José to a Proposed Reorganization of Territory Involving the Detachment of Certain Real Property Located at 15221 Skyview Drive (APN 595-06-002) and Directing the City Clerk To Transmit To and File with the Executive Officer of the Local Agency Formation Commission of Santa Clara County On Or Before October 19, 2004 A Certified Copy of this Resolution", was adopted. (10-0-1. Absent: Williams.)

- 4.5 Reports on bids and award of contract for the Towers Lane Improvement Project (north of Aborn Road) to the low bidder, DeSilva Gates Construction, LP, in the amount of \$626,191, and approval of a 15 percent contingency in the amount of \$94,000. CEQA: Exempt, PP 02-03-046. Council District 7. SNI: West Evergreen. (Public Works/Transportation)  
(Deferred from 8/31/04 – Item 4.3, et al, and 10/5/04 – Item 4.3)**

Documents Filed: None.

Action: Deferred to October 19, 2004.

## **RECREATION & CULTURAL SERVICES**

- 5.2 As recommended by the Parks and Recreation Commission, name a park located at the intersection of San Felipe Road and Larkspur Canyon Road as "Canyon Creek Park." Council District 8. (Parks, and Recreation Commission/City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated September 15, 2004, recommending approval of the name.

Action: Upon motion by Council Member Cortese, seconded by Vice Mayor Dando, the name "Canyon Creek Park", was approved. (10-0-1. Absent: Williams.)

- 5.3 (a) Approval of the list of San José B.E.S.T. Eligible Service Providers for 2004-2007.**  
**(b) Adoption of a resolution authorizing the City Manger to negotiate and execute grant agreements and amendments with the San José B.E.S.T. Eligible Service Providers, consistent with the directives of the Mayor's Gang Prevention Task Force for a term of September 1, 2004 through August 31, 2005, and for a total amount not to exceed \$2,465,000.**  
**CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**  
**(Deferred from 10/5/04 – Item 5.3)**

Documents Filed: None.

### 5.3 (Cont'd.)

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, the item was deferred for one to two weeks, with Staff directed to return with more information about all the grant applicants, including: (1) The dollar amounts requested by each group. (2) Which groups are new applicants and which are returning groups. (3) An explanation of how the information was shared about the process with the applicants (Did everyone receive the same information?); Mayor Gonzales agreed to return with recommendations about the process and a resolution to negotiate the contracts; Staff was also directed to contact those members of the public who wished to speak and invite them to return to comment. (10-0-1. Absent: Williams.)

### 5.4 **Direct Animal Care Services to coordinate alternative non-lethal methods to expel the coyote population currently living in the Almaden Villas with the State Department of Fish and Game, Santa Clara County Vector Control, the residents of the Almaden Villas and surrounding areas, and other interested and capable agencies. CEQA: Exempt, PP04-276. (Parks, Recreation and Neighborhood Services/City Attorney)** **(Council referral 10/5/04 – Item 5.6)**

Documents Filed: (1) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated October 8, 2004, recommending a review of alternate non-lethal methods to expel the coyote population. (2) Letters from the public regarding the coyotes in the Villas.

Public Comment: Jackson Wood, Joy Curl, Bud Spadaford, Steven Weil, Esq., Villas Homeowners Association, Kurtis Shenefield, Sally Ravel, Patricia Pizzo, Yvonne Kendall-James, Clara Rodrigues, David James, William Garbett, Gloria Melmon Archer, Arthur Woodward, Marcia Woodward, Gail Haywood, Richard Grialov, and Rich Latour spoke in favor of trapping and expelling the coyotes from the Villas.

Discussion: Discussion ensued, resulting in the direction as noted under “Action”.

#### 5.4 (Cont'd.)

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Staff recommendation was approved, with Staff directed to include Vice Mayor Dando's office in the coordination of alternate non-lethal methods to expel the coyotes; Staff was further directed to: (1) Conduct an environmental review of the leg-hold trap ordinance and return in two weeks with findings and recommendations; (2) Bring back an ordinance, as proposed October 5, 2004 by Mayor Gonzales, precluding the feeding of animals in areas where there is a risk of attracting coyotes and other dangerous wildlife; (3) Evaluate Staff recommendations for passive and active strategies to expel the coyotes and determine which are feasible/not feasible; (4) Research what other cities have done; both long and short term solutions; (5) Report back on what strategies the homeowners have already used, and include whose recommendations they have been following; (6) Determine a regional strategy; if the coyotes are expelled from the Villas, where will they go? What are the community's options? (7) Request a letter from the California Fish & Game Department indicating that the use of leg-hold traps is the only method available to protect human health and safety. (10-0-1. Absent: Williams.)

### TRANSPORTATION SERVICES

- 6.2 Approval of a Cooperative Agreement with the Santa Clara Valley Transportation Authority for the preparation of Construction Impact Mitigation Plans related to major transportation improvement projects. (Transportation)**  
**[Building Better Transportation Committee referral 9/13/04 – Item 6.1(d)(1)]**  
**(Deferred from 9/28/04 – Item 6.2 and 10/5/04 – Item 6.2)**

Documents Filed: Memorandum from Director of Transportation James Helmer, and Director of Public Works Katy Allen, dated September 27, 2004, recommending approval.

Action: Dropped.

## **JOINT COUNCIL/REDEVELOPMENT AGENCY**

The Redevelopment Agency Board convened at 5:02 p.m. to consider Item 10.1 in a Joint Session.

- 10.1 (a) Adoption of a resolution of the City Council:**
- (1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Delmas Park) Series 2004C-1 and Series 2004C-2" in an aggregate principal amount not to exceed \$19,379,000 (collectively, the "Bonds" and, individually, the Series 2004C-1 Bonds and Series 2004C-2 Bonds);**
  - (2) Approving a loan of Bond proceeds to Delmas Park Associates, L.P., a California limited partnership, for financing the construction of the Delmas Park Apartments Project located at 598 West San Carlos Street in San José;**
  - (3) Approving in substantially final form the Bonds, Trust Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Bond Purchase Agreement and Subordination Agreements;**
  - (4) Authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute, and deliver these bond documents and other related bond documents as necessary.**
- CEQA: Resolution No. 68839, and addenda thereto, PDC 03-016. Council District 3. (Housing/Finance)**
- (b) Adoption of a resolution by the City Council and Redevelopment Agency Board approving an Owner Participation and Grant Agreements by and among EHC Delmas Park, L.L.C., Delmas Park Associates, L.P., AOF/Pacific Affordable Housing Corporation, the City of San José, and the Redevelopment Agency of the City of San José, for a total of \$1,500,000 in two grants for the development of property for a mixed-use residential and retail project located at 598 West San Carlos Street. CEQA: Downtown Strategy Plan EIR and addenda thereto, Resolutions No. 64273 and 68839 (File No. PDC03-016). Council District 3. SNI: Delmas Park. (City Manager's Office/Redevelopment Agency)**
- (Deferred from 9/28/04 – Item 10.2 and 10/5/04 – Item 10.1)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, and Deputy Director of Finance Julia Cooper, dated September 13, 2004, recommending adoption of the resolution. (2) Supplemental memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated October 8, 2004, recommending approval of owner participation and grant agreements.



## 10.1 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72359, entitled: "A Resolution of the Council of the City of San José Authorizing the Issuance of Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof for the Financing of Delmas Park Apartments and Approving Other Related Documents and Actions"; Resolution No. 72360, entitled: "A Resolution of the Council of the City of San José Approving Owner Participation and Grant Agreements By and Among EHC Delmas Park, L.L.C., Delmas Park Associates, L.P., AOF/Pacific Affordable Housing Corporation, The City of San José, and the Redevelopment Agency of the City of San Jose, for a Total of \$1.5 Million in Two Grants for the Development of Property for a Mixed-Use Residential and Retail Project Located at 598 West San Carlos Street"; and Redevelopment Agency Board Resolution No. 5549, were adopted. (10-0-1. Absent: Williams.)

The Redevelopment Agency Board portion of the meeting was adjourned at 5:05 p.m.

## NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

| <u>Tract</u> | <u>Location</u>   | <u>Council District</u> | <u>Developer</u>         | <u>Lots/Units</u> | <u>Type</u> | <u>Proposed Decision</u> |
|--------------|---|-------------------------|--------------------------|-------------------|-------------|--------------------------|
| 9605         | West side of<br>Saratoga Ave., 150'<br>S of Graves Ave. | 1                       | Toll<br>Brothers<br>Inc. | 77<br>units       | SFA         | Approve                  |

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

None.

## OPEN FORUM

- (1) Mr. Bey, Coalition for Equal Justice, spoke in support of the Council's position of opposition to the closure of the San José Medical Center.
- (2) Deni Urosevic expressed frustration about rebuilding his home (destroyed by fire) on a substandard lot and urged the Council to change regulations that require a special use permit in circumstances like his.

**ADJOURNMENT**

The Council of the City of San José was adjourned at 5:09 p.m.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, CMC, CITY CLERK**

smd/10/12/04min